



MILPITAS CITY COUNCIL MEETING AGENDA

TUESDAY, DECEMBER 15, 2015

**455 EAST CALAVERAS BOULEVARD, MILPITAS, CA
6:00 P.M. CLOSED SESSION • 7:00 P.M. PUBLIC BUSINESS**

SUMMARY OF CONTENTS

I. CALL TO ORDER/ROLL CALL by the Mayor (6:00 p.m.)

II. ADJOURN TO CLOSED SESSION

(1) CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Pursuant to California Government Code Section 54956.8

Property: McCandless Property APN 086-41-016 and APN 086-41-017

Negotiating with: Milpitas Unified School District

Under Negotiation: Purchase & Sale Agreement

(2) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION

Pursuant to California Government Code section 54956.9(d)(1)

(a) Shannon Campbell, et al., v. City of Milpitas, et al.; U.S. District Court, Northern District of California, case no. 13CV03817BLF

(b) Odor related cases:

- 1) City of Milpitas v. City of San Jose, et al.; appeal to California Court of Appeal, 6th Appellate District, case no. H040664
- 2) City of Milpitas v. City of San Jose Planning Commission; appeal of Planning Director Decision, San Jose Planning Commission, file no. PD 14-014
- 3) City of Milpitas v. City of San Jose Local Enforcement Agency; appeal of LEA Hearing Officer Decision, California Department of Resources Recycling and Recovery (no case or file no.)
- 4) City of Milpitas v. City of San Jose, et al.; Petition for Writ of Mandate, Santa Clara County Superior Court, case no. 115CV279041
- 5) Peter Ng, et al., v. International Disposal Corporation of California, et al., Class Action, Santa Clara County Superior Court, case no. 112CV228591

(3) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION

Pursuant to California Government Code Section 54956.9 - City as Defendant

III. CLOSED SESSION ANNOUNCEMENT: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote or abstention of each member present

IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)

V. INVOCATION (Mayor Esteves)

VI. APPROVAL OF COUNCIL MEETING MINUTES – December 1, 2015

VII. SCHEDULE OF MEETINGS – COUNCIL CALENDARS December 2015 and January 2016

VIII. PUBLIC FORUM

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. However, the Council may instruct the City Manager to place the item on a future meeting agenda.

IX. ANNOUNCEMENTS

X. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

XI. APPROVAL OF AGENDA

XII. CONSENT CALENDAR (Items with asterisks*)

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a member of the City Council, member of the audience, or staff requests the Council to remove an item from or be added to the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar. If removed, this item will be discussed in the order in which it appears on the agenda.

XIII. PUBLIC HEARINGS

- 1. Conduct a Public Hearing and Adopt a Resolution Approving the Site Development Permit, Conditional Use Permit and Major Tentative Map for 73 Townhome Units and Associated Site Improvements on a 2.92-acre parcel within the Piper-Montague Sub-District of the Transit Area Specific Plan (Staff Contact: Richard Patenaude, 408-586-3277)**
- 2. Conduct a Public Hearing to Consider Protests Against Proposed Water Rate Increases, Waive the Second Reading and Adopt Ordinance No. 120.47, Amendments to Title VIII of the Milpitas Municipal Code for Water and Recycled Water Rate Adjustments (Staff Contact: Steve Machida, 408-586-3355)**

XIV. UNFINISHED BUSINESS

- * 3. Receive a Staff Report and Update on the Santa Clara Countywide Study on Minimum Wage Increase (Staff Contact: Edesa Bitbadal, 408-586-3052)**

XV. REPORTS OF MAYOR

- * 4. Consider Mayor's Recommendations for Appointments to City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**
- * 5. Consider Mayor's Recommendation to Change One Council Liaison Assignment to City of Milpitas Commission (Contact: Mayor Esteves, 408-586-3029)**
- 6. Request for Report to Accelerate Construction of Cricket Playing Fields (Contact: Mayor Esteves, 408-586-3029 and Tom Williams, 408-586-3050)**

XVI. NEW BUSINESS

- 7. Receive an Oral Report from the Public Works Director on City's Preparations for Winter Season 2015-16 (Staff Contact: Nina Hawk, 408-586-2603)**

- * 8. Request for Report Back from Staff on Planning Commission Compensation Review and City Council Compensation Review (Contacts: Mayor Esteves, 408-586-3029, and Tom Williams, 408-586-3050)**

XVII. ORDINANCE

- * 9. Waive the Second Reading and Adopt Ordinance No. 238.4 to Repeal and Replace Current Regulations Regarding Water Efficient Landscaping (Staff Contact: Steve Machida, 408-586-3355)**

XVIII. RESOLUTION

- *10. Adopt A Resolution Declaring Intention to Reimburse Expenditures from Proceeds of Tax Exempt Obligations to be Issued by the City or a Related Entity and Approve Consultant Agreements with (1) Jones Hall for Legal Services and (2) Fieldman, Rolapp & Associates for Financial Advisory Services for Issuance of the 2016 Tax Exempt Obligations for the Water Utility Fund (Staff Contact: Emma Karlen, 408-586-3145)**

XIX. DEMANDS

- * 11. Receive a Report on Emergency Work for Generator at Milpitas Sports Center and Authorize Payment of Invoices in an Amount Not to Exceed \$244,633.19 (Staff Contact: Nina Hawk, 408-586-2603)**
- * 12. Receive a Report on Emergency Repair of Technology Drive Water Main, Approve a Budget Appropriation from the Water Fund and Authorize Payment of Invoices in the Amount of \$24,993.31 to Preston Pipeline and \$26,555.00 to DRT Paving & Sealing, Inc. (Staff Contact: Nina Hawk, 408-586-2603)**

XX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JANUARY 5, 2016**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.ci.milpitas.ca.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on the City website. Phone 408-586-3040

All City Council agendas and related materials can be viewed online here:
www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Current Vacancies on

Bicycle Pedestrian Advisory Commission

Library Advisory Commission

Sister Cities Commission (2 vacancies)

Veterans Commission (2 vacancies)

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall. Contact the City Clerk's office at 408-586-3003 for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 408-586-3001 or send an e-mail to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings in that facility.

AGENDA REPORTS

XIII. PUBLIC HEARINGS

- 1. Conduct a Public Hearing and Adopt a Resolution Approving the Site Development Permit, Conditional Use Permit and Major Tentative Map for 73 Townhome Units and Associated Site Improvements on a 2.92-acre parcel within the Piper-Montague Sub-District of the Transit Area Specific Plan (Staff Contact: Richard Patenaude, 408-586-3277)**

Background: The applicant proposes to construct a 73-unit townhome project, known as Amalfi II/ Siena. The previously-approved project for Citation, approved by the City Council in February 2009, enabled a 260-unit rental project on this property. With the proposed change, the total project developed by SCS would contain 545 units, rather than the previously approved 732. Based on the previously-approved density average agreement, this project continues to meet the minimum required density for this site. This project is consistent with the development program addressed by the Transit Area Specific Plan Environmental Impact Report.

Parking would be provided onsite with two garage parking spaces per unit, as well as 18 guest parking spaces onsite. The project includes site improvements including new private streets; streetscape and landscape improvements along Merry Loop and Amalfi Loop; and stormwater treatment, utility, and public art.

The Planning Commission conducted a public hearing on November 18, 2015, and adopted a resolution by a unanimous vote recommending the City Council approve the proposed project. The Planning Commission found the proposed Project is consistent with the City of Milpitas General Plan, the TASP and the Zoning Ordinance.

Fiscal Impact: None.

Attachments:

- A. Draft City Council Resolution
- B. Planning Commission Staff Report 11-18-2015
- C. Planning Commission Meeting Minutes 11-18-2015
- D. Planning Commission Adopted Resolution No. 15-036
- E. Amalfi II – Siena project plans

Recommendations:

1. Open the public hearing for comments, and move to close the hearing following any speakers.
 2. Per the Planning Commission's recommendation, adopt a resolution approving the Site Development Permit, Conditional Use Permit and Major Tentative Map for 73 townhome units, and associated site improvements, replacing the previously-approved "wrap" condominium building, on a 2.92-acre parcel within the Piper-Montague Sub-District of the Transit Area Specific Plan (TASP).
- 2. Conduct a Public Hearing to Consider Protests Against Proposed Water Rate Increases, Waive the Second Reading and Adopt Ordinance No. 120.47, Amendments to Title VIII of the Milpitas Municipal Code for Water and Recycled Water Rate Adjustments (Staff Contact: Steve Machida, 408-586-3355)**

Background: On October 6, 2015 the City Council received a draft water rate study, introduced Ordinance No. 120.47 to amend Title VIII of the Milpitas Municipal Code to establish water rates through June 30, 2017 and set December 15, 2015 as the date of the public hearing for the consideration of the adoption of the proposed rates for water service fees.

Bartle Wells Associates was retained to perform the water rate study. The study examined the City's water fixed and variable costs for operations and maintenance, and capital improvements in order to prescribe a uniform water rate. While there are several acceptable methods for recovering water service costs, the rate study provides for various adjustment to overall City rate structure as part of the recommended update. The study recommends the following:

- Adopt American Water Works Association capacity standards to scale fixed charges with all meters 6-inches and larger paying the same rate.
- Implement a uniform rate instead of a tiered rate for the volumetric (i.e. quantity) charge.
- Implement long-term financing (bonds) to fund capital projects with long-term benefits.
- Recover capital costs through a capital program surcharge.

The proposed rate is designed to recover: a 10% increase in operational costs to cover the drought response program; costs of consultant support to maintain utility services and capital management tasks; and costs of additional permanent engineering and operations staff necessary for scheduled valve exercising and replacements, pipeline repairs, water system maintenance and flushing, inspection, and capital management. In addition, the City is faced with significant increases in the cost of the water it purchases from its wholesale water providers — San Francisco Public Utilities Commission (SFPUC) and Santa Clara Valley Water District (SCVWD). SFPUC increased the rate of its wholesale water by 28% and SCVWD increase the rate of its wholesale water by 20%. The rate increases will also fund an additional \$22 million of important capital projects, including relocation of the pipeline for the Lower Berryessa Flood Control Project, replacement of aging infrastructure, construction of seismic improvements to increase water reliability, and expansion of our recycled water distribution system to reduce demand on the City's limited potable drinking water supplies. These capital projects will be added to the City's \$20 million approved Capital Improvement Plan that will now total \$42 million.

As a result of the rate study, it is recommended these long-term beneficial projects be financed through bonds to take advantage of intergenerational benefit. The City will also prepare applications to various grant opportunities to help finance these capital costs. In addition, the water rate study recommends that all capital improvements be funded through a capital surcharge shown in the new rate structure.

Pursuant to California State Constitution Article XIID, section 6, commonly referred to as "Proposition 218," the City is required to hold a public hearing for the adoption of the proposed increases to the rates for the City's water service charges. At least 45 days in advance of the public hearing the City is required to mail notice of the public hearing and the proposed rate increases to the record owner of any parcel upon which the charges are proposed for imposition and any tenant directly liable for the payment of water service charges (i.e., a water utility customer of record who is not a property owner). The notice must be mailed at least 45 days in advance of the public hearing. The public hearing was set for December 15, 2015, and the notice was mailed by the City in accordance with Article XIII D, section 6(b) on October 28, 2015.

Any record owner of a parcel upon which the water service charges are proposed for imposition, and any tenant directly responsible for the payment of water service who is not a property owner, may submit a written protest to the proposed water service charges; however, only one written protest will be counted per identified parcel. To be counted, all written protests must be received by the City prior to the conclusion of the public comment portion of the public hearing. The City may adopt the proposed rates if less than a majority of property owners and utility customers directly responsible for the payment of water services submit written protests against the increase. A copy of the notice that was sent is included in the Council packet.

The proposed rates are shown in the following tables:

Fixed Meter Bi-Monthly Charges

Meter Size	Current Bimonthly Rate	Rate Effective 01-15-2016	Rate Effective 04-01-2016
5/8 inch	\$27.36	\$18.00	\$19.44
3/4 inch	\$29.07	\$27.00	\$29.16
1 inch	\$41.28	\$45.00	\$48.60
1-1/2 inch	\$52.07	\$90.00	\$97.20
2 inch	\$67.96	\$144.00	\$155.52
3 inch	\$181.95	\$270.00	\$291.60
4 inch	\$230.57	\$450.00	\$486.00
6 inch & above	\$351.86 – 667.31	\$900.00	\$972.00

Fire Meter Bi-Monthly Charges

Fire Service Line Size	Current Bimonthly Rate	Rate Effective 01-15-2016	Rate Effective 04-01-2016
2 inch	\$43.72	\$28.80	\$31.10
3 inch	\$65.68	\$54.00	\$58.32
4 inch	\$72.99	\$90.00	\$97.20
6 inch & above	\$94.92 – 138.69	\$180.00	\$194.40

Quantity Charges (Charge per Hundred Cubic Feet)

Category	Current per HCF*	Volumetric Charge Effective 01-15-2016	Volumetric Charge Effective 04-01-2016	Capital Surcharge Effective 04-01-2016
Residential:	\$2.62	\$4.75	\$5.13	\$1.30
0-10 hcf				
11-20 hcf	\$3.48	\$4.75	\$5.13	\$1.30
21-30 hcf	\$4.69	\$4.75	\$5.13	\$1.30
>30 hcf	\$5.29	\$4.75	\$5.13	\$1.30
Commercial, Industrial, Institutional, Construction	\$5.29	\$4.75	\$5.13	\$1.30
Potable Irrigation	\$5.29	\$4.75	\$5.13	\$1.30
Ed Levin Park**	\$3.08	\$3.75	\$3.79	NA
City of Milpitas	\$5.29	\$4.75	\$5.13	\$1.30
Recycled Irrigation	\$4.08	\$2.42	\$2.78	NA
Recycled Industrial, Dual-plumbed, Construction	\$2.65	\$2.42	\$2.78	NA
Recycled City of Milpitas	\$2.51	\$2.42	\$2.78	NA

* 1 HCF = 748 gallons

**County of Santa Clara rate is established by contract to be equivalent to the SFPUC wholesale rate. The FY 16-17 SFPUC rate is estimated to be \$3.79/HCF and staff will revise to actual rate once SFPUC adopts the FY 16-17 wholesale rate.

Staff recommends implementing the proposed rate increases over two years. The first increase would be effective on January 15, 2016, and the second increase would be effective on April 1, 2016. The proposed water rate schedule is tabulated in Ordinance No. 120.47, which is included in the Council packet.

The typical residential customer in Milpitas uses 8.5 units of water per month. If the rate increases are approved, the average cost per single family residence effective January 15, 2016 would increase by \$10.42 per month (from \$38.96 to \$49.38). The average cost per single family residence would increase by an additional \$15.00 per month effective April 1, 2016 (from \$49.38 to \$64.38).

The following changes were made to the rate study after the October 6, 2016 City Council meeting:

- Added a flow chart (page 8) to show the Cost of Service Rate-Setting Methodology, including cost allocation method, financial plan evaluation, and rate design and development.
- Added a new figure (Figure B on page 22) to provide more information on the proposed capital surcharge breakdown.
- Expanded details and descriptions throughout the document to provide more information and also make it easier to understand.

Staff developed a water rate fact sheet to address the most frequently asked questions. A copy of the fact sheet is included in the Council packet and on the City website.

No changes were made to the ordinance introduced on October 6, 2015. If a majority of the affected property owners do not file timely written protests, Ordinance 120.47 is ready for adoption.

California Environmental Quality Act: The ordinance is exempt from CEQA review under Public Resources Code section 21080(b)(8) and State CEQA Guidelines section 15273 because the water service charges are necessary and reasonable to fund the administration, operation, maintenance, and improvements of the water system and will not result in the expansion of the water system.

Alternative: If Council does not adopt the ordinance, the current rates remain in effect.

Fiscal Impact: The consequences of not raising rates sufficient to cover costs are that the City would be forced to take funding from the General Fund, the only source of discretionary funds, to replace lost revenues from rates insufficient to recover costs. This transfer from the general fund would reduce the City's ability to provide other desired community services such as enhancing public safety, parks and recreation, library, street landscaping, and street maintenance. It would also conflict with City policy and standard government practice that the water fund be operated as a self-supporting enterprise fund. By not adopting the proposed rate structure, the City would forfeit approximately \$40 million in important operating and capital projects over the next decade and it is estimated the City would lose more than \$2.5 million per year from reserves and other services funded through the General Fund to offset lost revenue. In addition, this would violate the City's operating reserve policy and increase our vulnerability of recovering from a major catastrophe.

The water rate adjustments would pay for escalating costs of wholesale purchases, City and wholesaler capital improvement programs, and system operation and maintenance for the utilities. In addition, water bonds are needed to provide capital for the proposed water supply and reliability projects.

Attachments:

- A. Ordinance No. 120.47 for adoption
- B. Water Rates Frequently Asked Questions (FAQs)
- C. City of Milpitas Water Rate Study 12/08/2015
- D. Proposition 218 - Notice of Public Hearing on Water Rates

Recommendations:

1. Open the public hearing to receive comments on the proposed water rates.
2. Move to close the hearing, following all speakers.
3. Receive a summary from the City Clerk of the number of written protests received and the number required for a majority protest. If the quantity of protests is less than a simple majority, Council may proceed with the next recommendation.
4. Waive the second reading and adopt Ordinance No. 120.47 to amend Title VIII of the Milpitas Municipal Code to establish water rates effective January 15, 2016 and April 1, 2016.

XIV. UNFINISHED BUSINESS

- * 3. Receive a Staff Report and Update on the Santa Clara Countywide Study on Minimum Wage Increase (Staff Contact: Edesa Bitbadal, 408-586-3052)**

Background: At the November 17, 2015 City Council meeting, Councilmember Grilli requested a report back on the status of the region-wide study on the minimum wage increase in Santa Clara County. In response to Councilmember Grilli's request, staff prepared a brief report and update on the Countywide minimum wage increase study and process.

The City of San Jose in coordination with the Cities Association has taken the lead on a minimum wage increase study for both San Jose and Countywide. San Jose staff issued an RFP to hire a consultant to conduct an independent, non-partisan analysis of impacts on increasing the minimum wage at a local level. The RFP was released on October 20, 2015 with a due date of November 5, 2015. The RFP includes analysis on a Santa Clara Countywide increase in the minimum wage, assuming all jurisdictions within Santa Clara County adopt the same minimum wage. Also, the study will include an analysis on a City of San Jose increase in the minimum wage with only San Jose raising the minimum wage. The study will analyze the impacts of minimum wage increase to worker and employers and exemptions. Two qualified firms submitted proposal by the due date. A subcommittee that comprised of San Jose/Silicon Valley Chamber of Commerce, Labor, Cities Association of Santa Clara County and City of San Jose was formed by the San Jose City Council that reviewed and made recommendations. The selected firm will be announced in mid-December to begin work in January. The study is expected to take three months to complete.

At this point, City of San Jose has not requested any monetary contributions towards the study from the City of Milpitas. However, if the study includes specific impacts to the City of Milpitas, we would contribute for a specific analysis.

City of Milpitas is coordinating its efforts with the Milpitas Chamber of Commerce for communication and outreach with businesses. Once the Countywide study is complete and ready, we will conduct a comprehensive outreach to our small, large, and minority owned businesses to gather their input and feedback. The Chamber has already conducted an online survey of their membership. A combined comprehensive outreach in collaboration with the Chamber will take place to discuss the results of study and its proposal. Once the outreach is complete, staff will present to the City Council the results of the county-wide study, proposal, options, and input from the Milpitas business community.

Fiscal Impact: None.

Recommendation: To receive a report from staff on the topic of minimum wage study.

XV. REPORTS OF MAYOR

- * 4. Consider Mayor's Recommendations for Appointments to City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves recommends the following:

Bicycle Pedestrian Advisory Commission:

Move current Alternate No. 2 William Barnes to be a voting Commissioner to a term that expires in August of 2018.

Newly appoint Philip Tuet as the Alternate No. 2 to a term that expires in August of 2018.

Library Advisory Commission:

Appoint current Alternate No. 1 Hellie Mateo to be a voting Commissioner to a term that expires in June of 2016.

Appoint current Alternate No. 2 Nonie McDonald as the Alternate No. 1 to a term that expires in June of 2017.

Newly appoint Tony Cailles as Alternate No. 2 to a term that expires in June 2017.

Senior Advisory Commission:

Re-appoint Karen Adams to a term that will expire in December of 2017.

Re-appoint Barbara Ebright to a term that will expire in December of 2017.

Re-appoint Alternate No. 1 Jenny Berryhill to a term that will expire in December of 2017.

Commission applications for new appointments to BPAC and LAC are included in the agenda packet.

Recommendation: Receive Mayor's recommendations and approve appointments to three City of Milpitas Commissions.

- * 5. **Consider Mayor's Recommendation to Change One Council Liaison Assignment to City of Milpitas Commission (Contact: Mayor Esteves, 408-586-3029)**

Recommendation: Mayor Esteves recommends appointing Councilmember Marsha Grilli to serve as the Council liaison to the Bicycle Pedestrian Advisory Commission.

6. **Request for Report to Accelerate Construction of Cricket Playing Fields (Contact: Mayor Esteves, 408-586-3029 and Tom Williams, 408-586-3050)**

Background: This item stems from various requests by the public to accelerate the construction of a permanent, regulation size, cricket field in the City of Milpitas. Although a permanent cricket field was approved and planned for a park located in the Transit Area Specific Plan, development of that park is estimated to be seven to ten years in the future.

City Council policy states that any staff work not part of an approved work program or budgeted item requiring more than four hours of staff time obtain approval of a majority of the City Council. This item seeks to obtain approval from the City Council to prepare an analysis including the location and budget to construct a regulation size cricket field as soon as possible.

Fiscal Impact: \$5,000 - \$10,000 of additional staff to conduct a study and provide recommendations to accelerate construction of a cricket field.

Recommendation: Approve request and direct staff to conduct a study and provide recommendations to accelerate construction of a regulation size cricket field.

XVI. NEW BUSINESS

7. **Receive an Oral Report from the Public Works Director on City's Preparations for Winter Season 2015-16 (Staff Contact: Nina Hawk, 408-586-2603)**

Background: The Public Works Director will provide an oral report at the City Council meeting on preparations completed and currently underway by the City staff for the winter season of 2015-16.

Fiscal Impact: On September 1, 2015, Council authorized \$557,086.00 from the General Government Capital Improvement Fund to complete emergency repairs of the City's storm pump stations and related infrastructure. At the Council meeting, the Public Works Director will provide an update on the work completed thus far and underway.

Recommendation: Receive a report from the Public Works Director on City preparations for the winter season 2015-16.

*** 8. Request for Report back from Staff on Planning Commission Compensation Review and City Council Compensation Review (Contacts: Mayor Esteves, 408-586-3029, and Tom Williams, 408-586-3050)**

Background: City Council policy states that any staff work not part of an approved work program or budgeted item requiring more than four hours of staff time obtain approval of a majority of the City Council. Upon approval of the City Council, staff will commence with work effort necessary to fulfill the request. From time to time it is necessary to conduct compensation reviews for the various roles in municipal government. This study effort is two-fold and seeks to answer the following questions: (1) Is the Planning Commission compensation sufficient and comparable with other communities in the surrounding area; and, (2) Is the compensation for City Council comparable with other municipalities that pay additional compensation for attendance at commission and committee meetings.

The purpose of this proposed work item is to conduct the necessary salary surveys to determine if the compensation schedule for planning commissioners and city council members is equitable.

Fiscal Impact: Approximately \$5,000 in staff time to conduct the studies.

Recommendation: Approve the request and direct staff to prepare the compensation surveys.

XVII. ORDINANCE

*** 9. Waive the Second Reading and Adopt Ordinance No. 238.4 to Repeal and Replace Current Regulations Regarding Water Efficient Landscaping (Staff Contact: Steve Machida, 408-586-3355)**

Background: This Ordinance was introduced at the December 1, 2015 City Council meeting. Subsequently, two typographical errors were corrected in the ordinance text. Section VIII-5.3.03-D-1-a incorrectly referred to eight foot wide landscape areas and should refer to ten foot wide landscape areas, as noted at the December 1 Council meeting. The second revision corrects a reference found in Section VIII-5-3.01-D to read as VIII-5-7.01-B-5 instead of VIII-7.00-B-5. Ordinance No. 238.4 is now ready for adoption.

Alternative: If Ordinance No. 238.4 is not adopted, the State Model Water Efficient Landscape Ordinance will be in effect.

Fiscal Impact: None.

Recommendation: Waive the second reading and adopt Ordinance No. 238.4 to repeal and replace the previous regulations per Ordinance No. 238.3 regarding Water Efficient Landscape.

XVIII. RESOLUTION

- *10. Adopt A Resolution Declaring Intention to Reimburse Expenditures from Proceeds of Tax Exempt Obligations to be Issued by the City or a Related Entity and Approve Consultant Agreements with (1) Jones Hall for Legal Services and (2) Fieldman, Rolapp & Associates for Financial Advisory Services for Issuance of the 2016 Tax Exempt Obligations for the Water Utility Fund (Staff Contact: Emma Karlen, 408-586-3145)**

Background: The proposed water rate increases include additional funding of \$22 million for several important capital projects that will address pipeline relocation for the Lower Berryessa Flood Control Project, valve and system replacements to address the City's aging infrastructure, increase seismic reliability and expand the recycled water distribution system that will reduce high demands on the City's limited potable supplies. In order to fund these projects in the near future, staff recommends issuing tax exempt obligations to be secured by water revenue. To initiate the issuance of bonds, staff proposes to assemble a team of professionals consisting of Jones Hall as bond counsel and disclosure counsel, and Fieldman, Rolapp & Associates as financial advisor.

Jones Hall has served the City and the Redevelopment Agency as bond counsel on a number of successful bond financings in the past. Based on this relationship, staff requested a proposal from the firm. Jones Hall is a firm comprised of 17 attorneys, all of whom practice exclusively in the area of municipal finance as bond counsel, underwriter's counsel, disclosure counsel, and special tax counsel. The firm is one of the most active municipal finance firms in the country and is nationally recognized for its expertise on tax exempt financing. The legal fees for bond counsel service are \$60,000 and for disclosure counsel are \$35,000. There is also an estimated out-of-pocket expense not to exceed \$3,000. Fees and expenses are on a contingent basis. If the financing is not closed, no fees will be paid for the work provided on the financing. Fees are paid out of the bond proceeds as a cost of issuance.

Through a Request for Proposal process for the 2015 Tax Allocation Refunding Bonds, staff selected Fieldman, Rolapp & Associates (FRA) as financial advisor. Staff found its services to be highly professional and was very satisfied with the advice that the firm provided throughout the bond issuance process. The refunding saved the taxing entities about \$27 million for the remaining life of the bonds. Staff proposes to engage FRA as financial advisor for the issuance of the 2016 tax exempt obligations for the Water Utility Fund. The fees for financial advisory service are \$57,500 plus an out-of-pocket expenses not to exceed \$3,500. Fees and expenses are on a contingent basis. If the financing is not closed, no fees will be paid for the work provided on the financing. Fees are paid out of the bond proceeds as a cost of issuance.

Staff also recommends the City Council adopt a resolution declaring intention to reimburse expenditures from the proceeds of the tax exempt obligations to be issued. The purpose of this resolution is to ensure that any expenditures on the proposed water capital improvement projects spent prior to the issuance of the bonds can be reimbursed from the bond proceeds. This will provide more flexibility for the City to start the projects without the concerns that bond issuance may be delayed.

Fiscal Impact: None. The service fees and expenses for bond counsel, disclosure counsel, and financial advisor are paid from the bond proceeds.

Recommendations:

1. Adopt a resolution declaring its intention to reimburse expenditures from the proceeds of tax exempt obligations to be issued by the City or an entity related thereto and directing certain actions
2. Approve consultant agreements (1) with Jones Hall for legal services, and (2) with Fieldman, Rolapp & Associates for financial advisory services for the issuance of the 2016 Tax Exempt Obligations for the Water Utility Fund.

XIX. DEMANDS

- * 11. Receive a Report on Emergency Work for Generator at Milpitas Sports Center and Authorize Payment of Invoices in an Amount Not to Exceed \$244,633.19 (Staff Contact: Nina Hawk, 408-586-2603)**

Background: Pursuant to state public contracting law and Council Resolution No. 7779, the Director of Public Works must report all emergency work to the City Council. On September 17, 2015, the Milpitas Sports Center experienced an unexpected electrical power outage which lasted several hours. Pacific Gas and Electric (PG&E) electrical service feed to the Sports Center had a failure at the City connection point to the main service feed. On October 28, 2015, the Milpitas Sports Center experienced another electrical power outage which lasted several hours. Neither power outage was caused by any City onsite infrastructure. PG&E arrived onsite for both power outages and completed repairs to its service feed, however it still took time for the PG&E crews to arrive onsite and restore power. As a result, both days the Sports Center had to close to the public and turn patrons away.

The Milpitas Sports Center is also the City's Care and Shelter Facility serving as a cooling center, warming center and a potential evacuation site for the public. Due to the unique dual purpose of the facility (community use along with care and shelter), it is paramount to ensure the facility does not endure lengthy power outages which could compromise health, safety and security of the occupants. Additionally, the site is shared with the two major potable water reservoirs used for fire protection within the City. After the first power outage, the Public Works Department began the effort to obtain services, contractors and consultants to obtain a temporary emergency generator for the reasons noted above and due to the impending storm season.

GHD, Inc. was hired to complete electrical engineering services including designs, project management and support. Summers and Sons Electric, Inc., was hired to complete the electrical work and modifications to the Milpitas Sports Center, which enabled the building to be connected to an emergency generator. United Rentals services were solicited to provide a temporary emergency generator for a five month period (through winter 2015) at the Milpitas Sports Center. The electrical modifications are complete and a temporary emergency generator is now onsite and operable for use. Contracting for this emergency work and service through a competitive solicitation for bids would have caused a several month delay that the project could not permit due to the short timeframe before the rainy season, and would jeopardize the public health, safety and welfare.

Fiscal Impact: None. There are sufficient funds in the Capital Improvement Program, City Facilities Improvements, Project No. 3406.

Recommendations:

1. Receive this report of emergency work on the generator at the Milpitas Sports Center.
2. Authorize payment of invoices in an amount not to exceed \$93,720.00 to GHD, Inc., an amount not to exceed \$93,750.00 to Summers and Sons Electric, Inc., and an amount not to exceed \$57,163.19 to United Rentals.

- * 12. Receive a Report on Emergency Repair of Technology Drive Water Main, Approve a Budget Appropriation from the Water Fund and Authorize Payment of Invoices in the Amounts of \$24,993.31 to Preston Pipeline and \$26,555.00 to DRT Paving & Sealing, Inc. (Staff Contact: Nina Hawk, 408-586-2603)**

Background: Pursuant to state public contracting law and Council Resolution No. 7779, the Director of Public Works must report all emergency work to the City Council. On August 27, 2015, the Public Works Department responded to a call concerning a water main break in the intersection of Technology Drive and Murphy Ranch Road, impacting both KLA Tencor and

Sandisk. A 12-inch diameter asbestos cement water pipe failed, causing a sink hole approximately 12 feet in diameter in the intersection of Technology Drive and Murphy Ranch Road. The depth of the pipeline was approximately 10 feet and condition of the soil was unstable. Due to the size of the repair and the urgent need to restore water supply to the businesses, the Public Works Director authorized Preston Pipelines to complete the water pipe line repair. The City crews provided drivers and dump trucks to assist Preston Pipelines in the repair.

Damage on the south east portion of the intersection occurred to the roadway, including the curb, gutter and sidewalk. The asphalt experienced buckling and lifting, while the sidewalk at the southeast corner of the intersection had significant cracks and damage. Due to the unsafe nature of the roadway, the Department of Public Works had to erect temporary fencing in the middle of the intersection of Technology Drive for a partial road closure. On October 2, 2015, DRT Paving & Sealing, Inc. completed asphalt and sidewalk repair of the intersection. Additional work completed by DRT Paving & Sealing Inc. included Thermoplastic striping and crosswalk markings.

Contracting for this emergency work and service through a competitive solicitation for bids would have caused a several month delay that would have jeopardized the public health, safety and welfare.

Fiscal Impact: An appropriation from the Water Fund in the amount of \$51,488.31 is needed because there are not sufficient funds in the Public Works Utility Maintenance Operating Budget for this emergency work.

Recommendations:

1. Receive a report from the Public Works Director on the emergency repair of Technology Drive Water Main.
2. Approve a budget appropriation from the Water Fund to the Public Works Utility Maintenance operating budget in the amount of \$51,488.31.
3. Authorize staff to pay invoices in the amount of \$24,933.31 for Preston Pipeline and \$26,555.00 for DRT Paving & Sealing, Inc.

XX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, JANUARY 5, 2016**